

TREATY ON THE NONPROLIFERATION OF NUCLEAR WEAPONS

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Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT together with MINORITY AND INDIVIDUAL VIEWS

[To accompany Ex. H, 90th Cong., second sess.]

The Committee on Foreign Relations, to which was referred the Treaty on the Nonproliferation of Nuclear Weapons, signed in Washington on July 1, 1968 (Ex. H, 90th Cong., second sess.), having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

I. PURPOSE AND BACKGROUND OF THE TREATY

The treaty's fundamental purpose is to slow the spread of nuclear weapons by prohibiting the nuclear weapon states which are party to the treaty from transferring nuclear weapons to others, and by barring the nonnuclear weapon countries from receiving, manufacturing, or otherwise acquiring nuclear weapons. As such, this treaty represents an important effort to lift the threat of adding new and fearful dimensions to international tensions and disputes through the spread of what has been called the seeds of a hundred crises.

In the years since Hiroshima, the United States and the Soviet Union as the major nuclear powers have gradually, often grudgingly, come to the realization that the technological triumphs of their own nuclear weapons programs were not beyond the reach of even the poor nations of the world. The search for new sources of commercial power has brought in its wake an ever-increasing potential for destruction. Dr. Glenn T. Seaborg, Chairman of the Atomic Energy Commission, told the committee of the world's growing nuclear capacity:

* * * In several more years the nuclear plants in operation in nonnuclear-weapons countries will be producing enough plutonium to make hundreds of bombs each year. The amount of material that will be produced would be sufficient, if diverted to the production of nuclear weapons, to level many cities and destroy much of humanity. * * *

Dr. Seaborg's comment in 1966 on the process of separating weapons-grade plutonium from the plutonium produced in civil power reactors is worth recalling:

* * * it is perfectly feasible to build a clandestine chemical-processing plant using readily available technology and equipment.

Given this burgeoning capability of so many nations to build nuclear weapons, the U.S. efforts to curtail the spread of nuclear weapons and skills have become increasingly more serious and urgent. In 1964 in his first message to the Geneva Disarmament Conference, President Johnson proposed an international agreement designed "to stop the spread of nuclear weapons to nations not now controlling them"; and to guarantee "that all transfers of nuclear materials for peaceful purposes take place under effective international safeguards." After 4½ years of steady effort, the U.S. Government has reached an agreement on the Nonproliferation Treaty with two other nuclear weapon states—the Soviet Union and Great Britain—that has thus far been signed by over 80 other states.

The treaty is a recognition by the United States, Great Britain, and the Soviet Union of a common interest in building barriers to the very real threat of mutual annihilation inherent in any increase in the number of countries controlling the use of nuclear weapons. As nuclear weapons spread around the world, whether to responsible or irresponsible powers, so will the danger increase that they might be used, and the major powers drawn into a crisis involving nuclear arms.

The treaty also represents recognition on the part of the nuclear weapon states which have signed the treaty of a responsibility to those nations which are now being asked to deny to themselves that which the United States and the Soviet Union consider essential to their security. The compensation for such an important act of national self-denial is the pledge of nuclear weapon states to make available to the nonnuclear weapon states which are signatories the benefits of peaceful nuclear programs, and to halt through the limitation and eventual elimination of the world's nuclear armories the nuclear arms race that threatens the very existence of all nations. Finally, the nuclear weapon states, pursuant to Security Council Resolution 255 (1968), have pledged themselves to take appropriate measures through the United Nations to safeguard the security of the nonnuclear weapon states which become parties to the treaty.

II. SUBSTANCE OF THE TREATY

The treaty consists of a preamble and 11 articles.

Articles I and II

Articles I and II state the basic obligations of the parties with regard to the transfer of nuclear weapons and skills. Article I prohibits the nuclear-weapon states bound by the treaty from transferring to

any possible recipient nuclear weapons or nuclear explosive devices and from assisting the nonnuclear-weapon states in manufacturing or otherwise acquiring nuclear weapons. [A nuclear-weapon state is defined by article IX, paragraph 3, as one which has "manufactured and exploded a nuclear weapon or other nuclear explosive devices prior to January 1, 1967."]

Article II obliges the parties that are not nuclear-weapon states not to receive nuclear weapons or other nuclear weapons explosive devices from any source whatsoever. Furthermore, it obliges them not to manufacture their own weapons or devices, or solicit or accept assistance in their manufacture.

Secretary of State Dean Rusk stressed in his testimony before the committee that the prohibitions in articles I and II will in no way inhibit the United States from meeting its responsibilities under existing nuclear weapons arrangements within the Western alliance, from deploying its nuclear forces around the world, or from transferring nuclear weapons or control over them in a war situation. He said, of the key articles I and II:

The treaty deals only with what is prohibited, not with what is permitted. It prohibits transfer to any recipient whatsoever of nuclear weapons or control over them, meaning bombs and warheads. It also prohibits the transfer of other nuclear explosive devices, because a nuclear explosive device intended for peaceful purposes can be used as a weapon or can be easily adapted for such use. It does not deal with, and therefore does not prohibit, transfer of nuclear delivery vehicles or delivery systems, or control over them to any recipient, so long as such transfer does not involve bombs or warheads. It does not deal with allied consultations and planning on nuclear defense so long as no transfer of nuclear weapons or control over them results. It does not deal with arrangements for deployment of nuclear weapons within allied territory as these do not involve any transfer of nuclear weapons or control over them unless and until a decision were made to go to war, at which time the treaty would no longer be controlling. And, it does not deal with the problem of European unity, and would not bar succession by a new federated European state to the nuclear status of one of its former components * * *

Deputy Secretary of Defense Paul H. Nitze told the committee that the obligations assumed by the nonnuclear weapon parties under article II do not include a prohibition on nuclear programs that are military in nature but that are unrelated to the manufacture of nuclear weapons—for example, nuclear submarines.

As a practical matter, it should be noted that, although U.S. statutes have forbidden the transfer of nuclear weapons to other states or associations of states, this prohibition was heretofore a national decision subject to revision of U.S. law. The pending treaty will turn this self-imposed limitation into an international prohibition that can be revised only by the process of amending the treaty, by U.S. withdrawal from the treaty, or by a war situation. For example, it has long been the United States position not to transfer nuclear weapons to any European federation. Heretofore this position could have been

changed by the President and the Congress; if the pending treaty comes into force there will be another, perhaps insurmountable, obstacle to any such change.

Article III

Under article III the International Atomic Energy Agency (IAEA) is vested with the responsibility of verifying that the nonnuclear weapon countries will not divert nuclear facilities and materials from peaceful purposes to the production of nuclear weapons. This verification would be in accord with the Statute of the International Atomic Energy Agency and the Agency's safeguards system.

The first paragraph of article III states that "each nonnuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement * * * with the International Atomic Energy Agency." The International Atomic Energy Agency safeguards required by this article "shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere."

Mr. William C. Foster, Director of the Arms Control and Disarmament Agency pointed out to the committee that article III does not require safeguards on the peaceful nuclear activities of nuclear-weapon states. [Military or defense facilities of the nuclear-weapon states are exempted from these provisions of the treaty.] Mr. Foster said that the fact that article III does not require safeguards on the peaceful nuclear activities of nuclear weapon states was commented on by many of the nonnuclear weapon states. He said that it proved impossible to negotiate such arrangements within the treaty itself. Therefore, the United States, in order to dispel any claims that the treaty was discriminatory in the peaceful nuclear activities field, volunteered to accept safeguards on its peaceful nuclear activities although the treaty does not call for such an obligation. President Johnson, on December 2, 1967, announced that—

when such safeguards are applied under the Treaty, the United States will permit the International Atomic Energy Agency to apply its safeguards to all nuclear activities in the United States, excluding only those with direct national security significance.

This offer prompted Senator Williams of Delaware to inquire whether this offer will—

* * * handicap us in view of the fact that apparently Russia could inspect our plants where we would not be able to inspect the extent of development of hers.

Secretary Rusk replied that installations which have a national security function would, of course, not be subject to inspection. The Secretary then went on to say:

Then, too, under the arrangements now in force by the International Atomic Energy Agency, the International Atomic Energy Agency arranges for inspectors that are acceptable and agreeable to the country that is going to be inspected in terms of—as you know, sir, we have opened certain of our facilities to these arrangements and we have not detected any handicaps arising from these arrangements.

The Director of the Arms Control and Disarmament Agency, Mr. Foster, was asked whether the International Atomic Energy Agency, under the terms of the treaty, could search out clandestine or undeclared nuclear facilities in a nonnuclear weapon country party to the treaty. Mr. Foster said that the existence of such a clandestine facility would be a clear breach of the treaty and that, although there is no provision in the treaty for searching out violations, there would be great international alertness to the possibility of such a violation.

The Chairman of the Atomic Energy Commission, Dr. Seaborg, was questioned at length on the role envisioned by the International Atomic Energy Agency under this treaty and the effectiveness of the International Atomic Energy Agency's safeguards.

Dr. Seaborg made a particularly important and pertinent point when he emphasized that the extension of the International Atomic Energy Agency safeguards to all nuclear facilities of the countries concerned represented one of the most significant accomplishments of the treaty. Dr. Seaborg commented on the progress the International Atomic Energy Agency had made since its organization in 1957, and then went on to say:

As encouraging as this progress has been, however, IAEA safeguards have been applied to date only to projects receiving Agency assistance or to projects voluntarily placed under IAEA controls. They have not covered the entire nuclear programs of the countries concerned. Neither have many nations given up, through treaty commitment, the right or independence to make nuclear weapons. The treaty will serve to fill these gaps and it will represent an unprecedented advance in international, let alone nuclear, affairs.

As for the safeguards system itself, Dr. Seaborg remarked:

* * * As a result of steady progress, the IAEA now has in operation an effective safeguards system that is suitable for application to a wide variety of peaceful nuclear activities. Moreover, as a result of steady efforts, a growing acceptance of such international safeguards has developed among various nations of the world. The safeguards which have been administered to date have done more than simply serve their immediate purpose of assuring that particular activities were not being used for military purposes. They have demonstrated that the techniques of international inspection are feasible and effective and are not considered an invasion of national sovereignty.

In response to questions on the International Atomic Energy Agency's safeguards staff and the ability of the organization to expand, Dr. Seaborg stated:

* * * The present IAEA safeguards staff, while modest in size, is in balance with the size of the workload for which the Agency has responsibility to date. We recognize that a major increase in the size of the Agency's staff will be required to meet the new responsibilities placed upon it by the treaty, and we do not underestimate the difficulty of the problem * * *

To Senator Pastore's specific question whether it was reasonable to assume that—

once this treaty comes into being that there will be a concerted effort to improve the adequacy and competency and staffing of the International Agency's inspection force. Is that correct?

Dr. Seaborg replied:

Very definitely. The staffing would go up, there would be a large increase in the number of professional and support personnel, and there would be an improvement, as they gain experience and gain numbers, in the efficacy of their inspection and their safeguards performance.

The fourth paragraph of article III permits agreements with the International Atomic Energy Agency to be concluded by the non-nuclear-weapon states party to the treaty, either bilaterally or in association with other states. This provision raised the question of the relationship between the International Atomic Energy Agency's safeguards systems and the system already in operation within the Euratom community.

The Euratom safeguards system derives from the Treaty of Rome signed on March 25, 1957. The members of this community are France, Italy, Belgium, West Germany, Luxembourg, and the Netherlands. It has been the position of the members of Euratom that the Euratom safeguards system is comparable to the International Atomic Energy Agency's safeguards system and that to superimpose the International Atomic Energy Agency's system would therefore be an infringement of sovereignty. According to the treaty now pending, a safeguards agreement between the International Atomic Energy Agency and Euratom will meet the general requirements of article III. Negotiations for such an agreement shall commence within 180 days from the entry into force of the treaty and shall be concluded not later than 18 months after the initiation of negotiations.

Secretary Rusk and Chairman Seaborg were optimistic that an agreement between the International Atomic Energy Agency and Euratom could be concluded without jeopardizing the institutional integrity of Euratom and with the acquiescence of the French Government which might be in a position to obstruct any agreement between IAEA and Euratom.

An additional question was raised about paragraph 2 of article III which binds each nuclear weapon state party to the treaty not to provide nuclear material "to any nonnuclear-weapon state for peaceful purposes, unless the source of specific fissionable material shall be subject to the safeguards required by this article." This article raises the possibility that in the event that such countries as the Federal Republic of Germany, Japan, and Israel do not come to an agreement with the International Atomic Energy Agency before the treaty enters into force the United States would be precluded from transferring to any such states nuclear materials for peaceful purposes. Administration witnesses took the position that nuclear weapon states party to the treaty would be subject to an undertaking not to provide nuclear material to any nonnuclear-weapon state for peaceful purposes unless the material was subject to safeguards resulting from an agreement

with the IAEA. The United States was confident that no such situation would develop, according to the testimony before the committee. It was left unclear, however, how the United States would react if such a situation did develop.

Articles IV and V

Articles IV and V are designed primarily as compensation to the nonnuclear weapon signatories for pledging not to acquire nuclear explosive devices even for peaceful purposes. Article IV contains an undertaking by all nuclear weapon parties to the treaty to facilitate to the fullest extent possible the exchange of information, materials, and equipment for the peaceful uses of nuclear power. Article V provides assurances to the nonnuclear parties that they will share in the benefits of the peaceful application of nuclear explosive devices. According to article V these nuclear devices would remain in the custody and control of a nuclear-weapon state, but would be made available "to nonnuclear-weapon States Party to the Treaty on a nondiscriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development."

Elaborating on the obligations the United States will assume under article V, Dr. Seaborg said:

When particular applications are found to be feasible, we plan to make a nuclear explosion service available on a commercial basis to domestic users and to nonnuclear-weapon parties to the Nonproliferation Treaty. Such a service would include the fabrication of the nuclear explosive device, its transportation from the assembly plant to the project site, its emplacement at the prepared site, and its arming and firing. The service would also include appropriate technical reviews of the proposed detonation, such as those relating to health and safety. The users of the service, whether it is furnished domestically or pursuant to article V, will pay for the service in accordance with rates established for its various elements. As I have already noted, the charges for the nuclear explosive devices used in furnishing the service will not include the cost of their research and development.

Dr. Seaborg also said that the nuclear excavation projects envisioned under article V "could not be executed within the present restrictions of the Limited Test Ban Treaty as presently interpreted; modification would be required to permit the United States to provide the nuclear explosion service for those projects." Thus, article V will probably create an international interest in an amendment to the Limited Test Ban Treaty.

Articles VI-IX

Article VI commits all parties to pursue negotiations in good faith relating to a cessation of the arms race and to nuclear disarmament.

Article VII makes clear that the treaty in no way affects the right to establish regional nuclear-free zones.

Article VIII establishes the procedures for amending the treaty and provides for a conference, 5 years after the treaty enters into force, to review the operation of the treaty.

Article IX designates the United States, the United Kingdom, and the Soviet Union as Depositary Governments, and provides that the treaty shall enter into force upon the deposit of instruments of ratification of the Depositary Governments and 40 other signatory states.

Article X

Any party to the treaty can withdraw from the treaty after giving 3 months' notice "if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country." This language is identical to that in the withdrawal clause of the Limited Test Ban Treaty. In giving the U.S. interpretation of this article, Gen. Earle G. Wheeler, Chairman of the Joint Chiefs of Staff, emphasized that the treaty will become immediately inoperative in case of general war. Moreover, General Wheeler said:

I would think that if we detected serious violations of the treaty provisions, that is, regarding the proliferation of non-nuclear states that would be hostile to us, that we would be justified in examining our position and perhaps recommending to the President that we withdraw from the treaty.

General Wheeler did not make it clear whether the Joint Chiefs of Staff would make the same recommendation if the situation involved the proliferation of nuclear weapons to nonnuclear weapon states friendly to the United States. General Wheeler also said that the Joint Chiefs of Staff would also recommend withdrawal if there were a threat of impending war which would "find us at a substantial disadvantage in the strategic nuclear field."

Article XI

Article XI provides that the English, Russian, French, Spanish, and Chinese texts of the treaty are equally authentic, and deals with the deposit of the original treaty instruments and the transmittal of certified copies to signatory and acceding states.

III. COMMITTEE ACTION

Although the treaty is primarily of a political nature, it also bears on technical questions relating to the field of atomic energy and international safeguard systems. For this reason, the chairman of the Committee on Foreign Relations, after consultation with committee members, invited the Senate members of the Joint Atomic Energy Committee to sit with the Committee on Foreign Relations during the hearings phase of consideration of the treaty.

The treaty was transmitted to the Senate by President Johnson on July 9, 1968. On July 10, the committee began a series of public hearings to explore the political, technological, and security implications of the treaty.

Without exception, all official witnesses supported the treaty. These included the Secretary of State; the Deputy Secretary of Defense; the Chairman of the Joint Chiefs of Staff; and the Chairman of the Atomic Energy Commission. The committee also heard the Honorable Chet Holifield, Vice Chairman of the Joint Committee on Atomic Energy, the Honorable Craig Hosmer, and the Honorable Paul Findley.

Representative Holifield strongly recommended the treaty without reservation to the Senate. Representative Hosmer favored approval of the treaty only with a number of conditions. Among them was the recommendation that the Senate reserve its consent to the treaty "pending establishment of IAEA safeguards procedures in which Treaty signatories may have reasonable confidence and the establishment of a sound system for financing same on a continuing basis." Representative Hosmer contended that at the present time the International Atomic Energy Agency does not have an effective safeguards system and that, moreover, the costs of this safeguards system will be over \$28 million in 1970 and will "escalate from there." He also suggested that:

The Senate advise the President and the rest of the world that the security assurance is meaningful to the extent that we will be "concerned to the utmost" if some country becomes the victim of nuclear aggression or blackmail, but that it is meaningless insofar as rushing to its rescue is concerned; and we apologize to anybody who got the wrong idea from what administration spokesmen have said.

Dr. Strausz-Hupé, director of the Foreign Policy Research Institute at the University of Pennsylvania, testified against the treaty, arguing that it would be destructive to NATO.

Dr. Edward Teller of the Lawrence Radiation Laboratory and Chairman of the Divisional Advisory Group of the Air Force Space and Missiles Systems Organization, favored approval of the treaty with the following modification related to the development of anti-ballistic-missile defense systems. Dr. Teller stated:

It seems to me, therefore, necessary to declare that weapons which are designed for defense and can be used for defense alone are in the interest of peace. That when and if such defensive systems are properly developed, the necessary steps will be taken to make them widely available for self-defense, and that this will be done even if it requires modification of existing laws or treaties.

I, therefore, explicitly recommend that the Senate make it known that it looks with favor on the development of effective defensive systems, and that by ratifying the treaty the Senate does not intend to preclude the deployment of purely defensive arrangements, if and when these become available.

A number of additional public witnesses testified after submitting requests to appear. A majority of these witnesses supported the treaty.

The burden of the committee's questions at the time of the public hearings concerned the security guarantees the administration has offered nonnuclear weapon signatories, the effect the treaty would have on nonnuclear weapon states, particularly within NATO, and the prospects for adherence to the treaty by other nations. The invasion and occupation of Czechoslovakia occurred between the time the committee concluded its public hearings and the time the committee took final action in executive session. This issue and its relationship to the treaty became of great concern to the committee and was the subject of considerable discussion, particularly as to the

appropriateness of approving the treaty while Czechoslovakia was occupied by Soviet troops.

The security guarantee resolution

One of the most important aspects of the Nonproliferation Treaty is not included in the treaty text. In June 1968 the United States, Great Britain, and the Soviet Union introduced a resolution in the United Nations Security Council, which was subsequently approved by the Council on June 19, giving security guarantees to the non-nuclear-weapons signatories of the Nonproliferation Treaty.

The key paragraph in the declaration made in the Security Council by the United States in explanation of its vote for the resolution contains the following language:

* * * any State which commits aggression accompanied by the use of nuclear weapons or which threatens such aggression must be aware that its actions *are to be countered effectively* by measures to be taken in accordance with the United Nations Charter to *suppress the aggression or remove the threat of aggression*. [Emphasis added.]

In considering the resolution and its relationship to the pending treaty the committee sought to determine whether the Security Council resolution and the U.S. declaration in explanation of its vote commit the United States to any additional responsibilities other than those already assumed under the United Nations Charter.

The committee wishes to make it unmistakably clear that it considers the Security Council resolution and the U.S. declaration as separate and distinct from the Nonproliferation Treaty. This resolution and the accompanying declaration, are solely executive measures. However, because these actions are linked politically to the treaty, the connection could convey the impression that approval of the treaty by the Senate also means approval of the Security Council resolution. For this reason, the committee wishes to make the record clear that support of the Nonproliferation Treaty is in no way to be construed as approval of the security guarantee measures embodied in the United Nations resolution or the supporting U.S. declaration. It is appropriate, however, for the committee to express its interpretation of the United Nations resolution on security guarantees, since the pledge and resolution bear upon the constitutional right of the Senate to approve formal security commitments by the United States and upon the constitutional right of the Congress to declare war.

The committee is constrained to point out that, in its view, this United Nations resolution and its accompanying declaration in no way involve a ratification of prior commitments or establish new commitments. In the event that action is contemplated by the United States, by reason of its declaration in the Security Council, such action can only be taken with due regard to proper Constitutional processes.

The committee is confident that this point was made clear by the testimony. The Secretary of State told the committee that "as a matter of law and as a matter of policy" there were no additional obligations assumed by the United States under the United Nations security guarantee resolution. Mr. Rusk said that any action the United States would take as a result of United Nations decisions

under the security guarantee resolution would not be taken by the United States because of any new obligations assumed under the resolution. Secretary Rusk then underlined this point:

The decision itself [to act on any Security Council decision] would have to be made at the time in terms of the total interests of the United States and the judgment of the President, in consultation with leaders of the Congress, as to what is required in our own interests at that time.

In response to a direct question, Secretary Rusk agreed with the interpretation offered by Senator Case of New Jersey that the pending treaty would in no way "eliminate the necessity for adoption of whatever constitutional processes may be applicable in the event the question arises as to the use of the armed forces of the United States in the future."

The committee, therefore, records its firm conclusion, reached after extensive testimony, that the Security Council resolution and security guarantee declaration made by the United States in no way either ratify prior *national* commitments or create new commitments.

Under normal charter procedures, the United States had the *option* of calling the attention of the Security Council to a case of aggression or threat of aggression. Now that option has apparently become an *obligation*. The United States has also had the option of determining the timing of such an appeal to the Security Council. It now appears that the United States is honor bound to follow a definite if limited course of action if a nonnuclear weapon state declares that it is a victim of nuclear aggression or the threat of such aggression. Under the security guarantee pledge, the Administration has expressed its intention to seek "immediate" Security Council "action" to aid a nonnuclear weapon state that is the victim or potential victim of nuclear aggression.

The change here is a subtle one that has no bearing on the committee's judgment that the Senate's approval of the treaty is not to be construed as approval or disapproval of the Administration's security guarantee measures, or the committee's further judgment that these actions in no way either ratify prior national commitments or create new commitments. The committee only wishes to point out that in its view the Administration has surrendered some of its diplomatic flexibility in hopes of creating a framework for United States-Soviet cooperation in the United Nations. If this cooperation develops and matures the Security Council gesture will be worth the costs in diplomatic flexibility.

National security considerations

The Chairman of the Joint Chiefs of Staff, General Wheeler, testified as to whether the views of the Joint Chiefs of Staff were taken into account during the treaty negotiations. General Wheeler was also asked whether the treaty fully safeguards our national security interests. General Wheeler offered this comment on the treaty and its effect on national security:

At the initiation of treaty discussions, the Joint Chiefs of Staff formulated certain principles relating to national security that should not be violated by such a treaty. First, we believe that any international agreement on the control of nuclear weapons must not operate to the disadvantage of

the United States and our allies. Secondly, it must not disrupt any existing defense alliances in which the United States is pledged to assist in protecting the political independence and territorial integrity of other nations. These principles have been observed.* * *

General Wheeler went on to state that the Joint Chiefs of Staff were unanimous in supporting the treaty. It should also be noted that General Wheeler said that every proposal concerning the treaty made by the Joint Chiefs of Staff during negotiations was accepted.

Obligations to allies

The committee expressed concern during the hearings at the possible effects of the treaty on the U.S. security arrangements, particularly within NATO. At the same time, the committee sought to ascertain whether the United States, either explicitly or by suggestion, was considering offering inducements to any country to sign the treaty.

Secretary Rusk, Deputy Secretary of Defense Nitze, and General Wheeler stated unequivocally that the treaty is consistent with the best interests of the North Atlantic Treaty Organization. Secretary Rusk said that the United States had worked closely with its allies in the formulation of the treaty and that our allies were fully satisfied that the treaty in no way would jeopardize the alliance or the individual national interests of its members.

The committee agrees with this evaluation. The committee also wishes to make the record unmistakably clear that the treaty in no way affects the right of the United States to enter into agreements to station nuclear weapons under United States control on the soil of an ally.

Nevertheless, this treaty does represent a potential cost to the United States in its alliance relationships. Heretofore, it was a national decision whether the United States would use its nuclear assets in helping one or more countries to develop nuclear weapons. Admittedly, this was an option the United States never used except in the case of Great Britain; but it was an option subject only to a decision of the executive branch and the Congress. Now we have all but given up that option in the sense that this treaty imposes a formidable barrier to the United States assisting other countries in the development of nuclear-weapons programs. Nevertheless, the committee believes that the possible future costs of renouncing this option are overshadowed by the major step the treaty takes in the direction of controlling the spread of nuclear weapons.

After extensive testimony on the subject of possible inducements offered to sign the Nonproliferation Treaty, the committee concludes that the Administration has no intention of making any commitment to any potential nonnuclear weapon signatory to induce that country to sign the treaty. For example, Deputy Secretary of Defense Nitze flatly told the committee that the United States has given West Germany no guarantee to defend that country against nuclear attack even if NATO should be dissolved. (However, Secretary Rusk made it clear that, if NATO were to dissolve, this fact might be taken by nonnuclear NATO members as affecting their supreme national interest and therefore justifying their withdrawal under the withdrawal article.) Moreover, the committee was told that the German Government has not suggested that the continuing stationing of any

particular level of American troops in Europe is related to its attitude toward adhering to the treaty.

Adherence to the treaty

Secretary Rusk was questioned at length on the attitudes of nonnuclear weapon states toward the treaty. The Secretary replied that the Administration was asking for prompt Senate action on the treaty "because many countries, particularly our allies, are waiting to see what we do before starting their own parliamentary considerations of the treaty. We recognize that the effectiveness of the treaty will depend in large measure upon the adherence of other countries. But we have been among the leaders in securing agreements on this treaty, and other countries are looking to us now."

The committee agrees that the effectiveness of the treaty will depend largely on the adherence of the widest possible number of countries. It also notes how few states with the technological and economic means of developing nuclear weapons have thus far signed the treaty. Consequently, the committee urges the President, once the Senate has acted, to consider delaying the process of depositing the United States instrument of ratification until such time as he has received positive assurances that a majority of those countries nearest to a nuclear-weapons capability intend to adhere to the treaty. The treaty will become little more than a pious declaration of intent unless it receives the adherence of those countries with the potential capability to develop nuclear weapons.

IV. CONCLUDING COMMENTS

The committee finds that this treaty is the best that can be negotiated at this time.

Essentially, the treaty formalizes the mutual concern of the United States, Great Britain, and the Soviet Union in containing the spread of nuclear weapons. The United States, Great Britain, and the Soviet Union appear to have a sober understanding of the increased dangers of nuclear war that would come as more and more nations possess nuclear weapons. They appear to be convinced that the treaty will not adversely affect the balance of power. They seem persuaded of the advantages of establishing a framework for cooperation that will hopefully lead to a reduction of the hazards and uncertainties that many nonnuclear weapon countries feel as nuclear commercial power and its potentially destructive by-product of plutonium spread throughout the world. They have given a pledge of good faith in seeking agreements that would limit nuclear arms competition between the major powers.

The committee is fully aware of the mutual responsibilities the nuclear weapon states party to the treaty have assumed to move to negotiate the means of limiting, if not ending, the nuclear arms race. The committee is equally aware that the United States has assumed this responsibility by asking other nations not to follow our example. It is in this sense, and this sense alone, that the committee believes that the word "commitment" is appropriate to this treaty—a commitment to pursue with good faith and urgency new arms limitation agreements.

The committee is also aware of potential problems regarding the interpretation of U.S. obligations under article V. As mentioned,

article V gives assurances to the nonnuclear weapon states that they will share on a nondiscriminatory basis in the benefits of the peaceful application of nuclear explosive devices. The language of this article suggests that the United States will provide these services to any nonnuclear weapon state party to the treaty regardless of its relationship to the United States, with all costs for research and development borne by the U.S. taxpayer. Another potential problem is that the language of article V might be interpreted as a positive commitment to provide explosive services for research and development projects that further the commercial interests of domestic and international customers—such as oil and gas companies—without regard to the relationship and importance of these projects to the U.S. public interest.

The committee wishes to record its concern at the open ended commitment implied in article V. We suggest that obligations under this provision should be undertaken only after the fullest consultation with appropriate congressional committees and should be limited to projects within the capacity of the United States and consistent with its interests. Moreover, the committee specifically rejects any suggestion that article V constitutes an across-the-board pledge by the United States to support foreign and domestic commercial research and development projects. As in the case of nuclear services projects, research and development projects should be undertaken only after the public interest has been carefully defined by the appropriate congressional committees.

Admittedly, the implementation of the treaty raises uncertainties. The reliability and thereby the credibility of international safeguards systems is still to be determined. No completely satisfactory answer was given the committee on the effectiveness of the safeguards systems envisioned under the treaty. Moreover, the committee was not given a completely satisfactory answer as to what the signatory nations will do if the International Atomic Energy Agency fails to work out mutually satisfactory agreements with individual states or associations of States within the time prescribed by the treaty. The committee hopes that the optimism of the administration will be borne out and that successful agreements with the IAEA will be concluded without difficulty or delay. Nevertheless, the committee notes that the Euratom States have unanimously agreed that the treaty will only be ratified after a satisfactory verification agreement has been reached between Euratom and the IAEA.

The committee is fully aware of the potential problems in the safeguards field. But it is equally convinced that when the possible problems in reaching satisfactory safeguards agreements are carefully weighed against the potential for a worldwide mandatory safeguards system, the comparison argues strongly in favor of the present language of the treaty.

The committee concludes that the treaty is in the best interest of the United States. The committee is mindful, however, that this treaty is certainly no cure-all to the problems of nuclear proliferation. The success of the agreement will depend on its wide acceptance particularly by those countries with the national capability to manufacture nuclear weapons. Success will also depend on the acceptance and credibility of the safeguards provisions.

The committee is also mindful of the tragic events in Czechoslovakia and of the flagrant violation of international law by the Soviet Union.

If the Soviet Union is so indifferent to its international obligations and so callous in disregarding world opinion, why should the Soviets respect the Nonproliferation Treaty? The committee was particularly concerned at the cynical disregard by the Soviet Union of the language of the preamble to the Nonproliferation Treaty. The final introductory clause to the Nonproliferation Treaty begins as follows:

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations . . ."

During committee discussion of the treaty before final action was taken, several members took the position that, while they supported the treaty, they believed that the committee should defer final consideration until January because of Soviet behavior. Weighted against this desire to express displeasure with the Soviet Union was the prevailing view that, while the Soviet actions were unconscionable, the treaty itself is multilateral in character and of such significance as a potential barrier to the further spread of nuclear weapons that any delay in taking final committee action was inadvisable.

In conclusion, the committee believes that the Nonproliferation Treaty represents an important beginning in controlling the further spread of nuclear weapons, although it will remain only a fervent affirmation of good intentions until the signatories move swiftly to achieve a cessation of the nuclear arms race. Therefore, the committee (by a vote on September 17 of 13 to 3 with 3 abstentions) recommends that the Senate give its advice and consent to ratification of the pending treaty.

MINORITY VIEWS

The undersigned do not agree with the recommendation of the majority of the Committee on Foreign Relations that the Senate should now give its advice and consent to ratification of the Treaty on the Nonproliferation of Nuclear Weapons. Our objections concern both the substance of the treaty and its relationship to the tragic events in Czechoslovakia.

Our reasons for urging delay because of unresolved substantive questions are as follows:

First, the Atomic Energy Commission has stated, and the majority report has conceded, that the reliability of the present international safeguards system of verifying that nonnuclear weapon countries will not violate the treaty is open to question. Under article III, the International Atomic Energy Agency (IAEA) is charged with the responsibility for verifying that nonnuclear weapon countries will not use their nuclear facilities and materials for the production of nuclear weapons. According to the testimony before the committee, the International Atomic Energy Agency's technical and organizational ability to carry out inspection duties is still to be determined. In other words, it is still questionable whether the IAEA has the capacity to prevent cheating. Reliance on the safeguards system is thus, purely and simply, an act of faith—faith not only in the capacity of the IAEA to meet the enormous responsibilities that will be thrust upon it but faith also in the promises of all of the parties to the treaty not to violate the treaty clandestinely when a violation would suit their purposes.

Second, we believe that the treaty could be injurious to our relations with the Euratom community composed of West Germany, Italy, Luxembourg, the Netherlands, Belgium, and France. Article III of the treaty is potentially punitive in nature, for it would punish our European friends who are members of Euratom if they do not work out mutually satisfactory inspection and verification agreements with the IAEA. As the majority report notes, article III requires nuclear weapon parties to the treaty, including the United States, to cut off all nuclear assistance to any country which does not reach agreement with the International Atomic Energy Agency during the time prescribed by the treaty. We must face the fact that if we ratify this treaty before Euratom and IAEA have reconciled their inspection systems, we run the risk of being forced to punish all members of Euratom by cutting off all of our nuclear assistance to them. In this connection, it should be noted that the Euratom countries have recently voted unanimously not to ratify the nonproliferation treaty until such time as a mutually satisfactory agreement can be worked out between Euratom and the International Atomic Energy Agency.

Third, article V of the Nonproliferation Treaty pledges to all countries, regardless of whether they are hostile or friendly to the United

States, substantial benefits from our peaceful atomic energy programs, programs which include nuclear explosive devices. Thus, we are being asked to consent to the approval of a treaty which pledges the United States to make available to nonnuclear weapon states "on a nondiscriminatory basis" explosive devices at a charge "as low as possible and exclude any charge for research and development." Unless the Senate takes the time to clarify what this pledge means, and perhaps to consider offering a reservation limiting this nuclear largesse of the United States, we could well find ourselves undertaking nuclear engineering projects at the request of countries from Afghanistan to Zambia, and the American taxpayer will stand the major cost.

Fourth, estimates given the committee on the cost to the United States of an augmented and expanded inspection program for the International Atomic Energy Agency vary widely. One estimate from a reputable source is that the total cost for safeguards will run over \$1 billion annually by 1990. How much of this amount will the United States be forced to pay?

These substantive questions will hopefully be satisfactorily answered over the next few months. In our view, we do not have satisfactory answers now, and it would be foolhardy for us to consent to the ratification of a treaty containing so many uncertainties.

We also submit that another compelling reason for the Senate to delay any final consideration of this treaty is the fact that a Conference of Nonnuclear Weapon States is now meeting in Geneva pursuant to a resolution of the United Nations General Assembly. This Conference began on August 29 and will probably last until the end of September. Over 90 states are represented in Geneva; they are meeting to consider their expectations under the provisions of the Nonproliferation Treaty. These countries are particularly interested in discussing and agreeing on the benefits they will obtain from the treaty, such as their access to nuclear equipment, material and scientific information. They are also considering the question of the security guarantees they hope to receive and the subject of the demands they will levy on the nuclear weapon states with regard to nuclear disarmament.

It would seem prudent for the Senate to wait until this Conference has been concluded, and we have had time to consider the attitudes and expectations of these countries, before we give our advice and consent to the treaty's ratification. These countries will be our partners under the Nonproliferation Treaty, and we have not only a right but a responsibility to determine what they expect to gain, and what they expect to give.

So much for the questions regarding the substance of the treaty, questions which suggest that the Senate is not yet in a position to give its advice and consent to ratification of the Nonproliferation Treaty. But even if these substantive questions did not exist, there is another—and perhaps even more fundamental—consideration involved and that is the question of timing. This question, in turn, relates to the Soviet Union's invasion and occupation of Czechoslovakia.

The Nonproliferation Treaty is a potentially important agreement for the obvious and worthwhile reason that its objective is to prevent the spread of nuclear weapons to States which do not now possess them. But, in addition, the treaty was also originally regarded as a measure which would promote cooperation between the United States and the Soviet Union. President Johnson's letter of July 9, trans-

mitting the text of the Nonproliferation Treaty to the Senate, makes clear the "hope that this treaty will mark the beginning of a new phase in the quest for order and moderation in international affairs," order and moderation which require the cooperation of the Soviet Union.

The Nonproliferation Treaty does require the cooperation of the Soviet Union. But the cooperation of the Soviet Union must be taken on faith. Unlike the Limited Test Ban Treaty, which also brought the two atomic superpowers together in a joint effort to control the use and proliferation of nuclear weapons, there is no method of insuring that the Soviets will live up to their part of the bargain. The Limited Test Ban Treaty, it should be remembered, was limited to prohibiting those tests which could be detected without on-site inspection. But there is no way to monitor effectively the Soviet Union's performance of its obligations under the Nonproliferation Treaty. The treaty obliges nonnuclear weapon states to permit safeguards which include at least some limited inspection. The two other nuclear weapon states which are parties to the treaty—the United States and the United Kingdom—have issued declarations stating their willingness to submit themselves to the same safeguards, safeguards which include international inspection of nonmilitary nuclear installations. But the Soviet Union has not been willing to agree to even such limited safeguards. It is thus the only party to the treaty which will be completely immune from any and all obligations regarding safeguards.

Is this an appropriate time for the United States to signify our willingness to take Soviet promises on faith? Is this an appropriate time for the United States to signify that we are willing to disregard the promises broken by the Soviet Government less than one month ago when massive numbers of Soviet forces invaded Czechoslovakia? Other countries have indicated their belief that this is not an opportune time even to sign the treaty. It seems to the undersigned that this is an even less opportune time for us to take an even more final step and consent to the treaty's ratification.

With respect to the promises broken by the Soviet Union when Czechoslovakia was invaded, it should be noted that the invasion violated not only the spirit but the letter of the Nonproliferation Treaty. The final introductory clause in the treaty begins as follows:

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state * * *

Since the treaty is not yet in force, and since it has not yet been ratified by the Soviet Union, it can be argued that the invasion and occupation of Czechoslovakia do not violate any obligations of the Soviet Union under this treaty because no such obligations yet exist. But it is clear that the Soviet invasion and occupation of Czechoslovakia do violate several solemn treaty commitments of the Soviet Union that unquestionably do exist. One such commitment is the United Nations Charter. A second is the Warsaw Pact, a treaty between the Soviet Union and its closest allies.

The final clause in the preamble to the Warsaw Pact reads as follows:

* * * desirous of further promoting and developing friendship, cooperation and mutual assistance in accordance with

the principles of respect for the independence and sovereignty of states and of noninterference in their internal affairs * * *

Article VIII of the Warsaw Pact reads as follows:

The contracting parties declare that they will act in a spirit of friendship and cooperation with a view to further developing and fostering economic and cultural relations with one another, each adhering to the principle of respect for the independence and sovereignty of the others and noninterference in their internal affairs.

If the Soviet Union treats its obligations to its closest allies with such complete disregard and cynicism, what are the prospects for Soviet observation of its obligations under the Nonproliferation Treaty?

Even so, because of the vital importance of doing everything possible to prevent the spread of nuclear weapons, the wisest course of action might still be to sacrifice our scruples and dismiss our doubts if the Senate were confronted with a choice between having a Nonproliferation Treaty now or not having it ever. But the choice facing the Senate is whether to advise and consent to ratification at this time or whether to defer that action until some time next year. Even if we were to give our advice and consent to ratification at this time, the treaty would not enter into force until the two other nuclear weapon parties, and at least 40 nonnuclear weapon parties, also ratify the treaty. To date, only one other country, Ireland, has so acted. Furthermore, the treaty has not even been signed by two of the world's nuclear weapon states—Communist China and France—or by many of those states most likely to become nuclear weapon states: Japan, Israel, India and West Germany, in particular. As the majority report on the treaty states:

* * * the committee urges the President, once the Senate has acted, to consider delaying the process of depositing the United States instrument of ratification, until such time as he has received positive assurances that a majority of those countries nearest to a nuclear weapons capability intend to adhere to the treaty. The treaty will become little more than a pious declaration of intent unless it receives the adherence of those countries with the potential capability to develop nuclear weapons.

The Soviet invasion of Czechoslovakia, and Soviet actions while occupying that country, have caused a wave of revulsion across the world—including parts of the communist world—and in Europe, in particular, a parallel wave of fear. What is the proper attitude for the United States to demonstrate in light of this situation? We have already been criticized by many both at home and abroad on the ground that we shirked our responsibilities before the invasion and have been callous in our reactions ever since. Other countries are reminded of the spirit of Munich. They have voiced their suspicions of collusion between the two most powerful countries in the world.

Our privileges as one of the world's great powers surely carry with them a certain moral responsibility. We should not turn our back on this responsibility. We do not do our country credit by continuing

to do "business as usual" with the Soviet Union thus demonstrating to all—including the Soviets, their present victims and any potential victims—that they can act no matter how brutally without suffering any important consequences in their relations with the United States. There are already few restraints operating to deter such savage international behavior. Will the United States remove the restraint of opprobrium for all time?

The peace of the world has been dangerously threatened in the last month. It has not been threatened by the failure of the United States to ratify the Nonproliferation Treaty hastily. It has been threatened by the march of hundreds of thousands of Soviet soldiers into a friendly neighboring country whose treaty relationship with the Soviet Union supposedly guaranteed its independence and sovereignty.

KARL E. MUNDT.

BOURKE B. HICKENLOOPER.

JOHN J. WILLIAMS.

THOMAS J. DODD.

FRANK J. LAUSCHE.

INDIVIDUAL VIEWS OF SENATOR THOMAS J. DODD

I have signed the minority report on the Nonproliferation Treaty because I agree in general with the various points made in it. However, I have decided to file a statement of individual views because I would like to see more emphasis placed on two points which I consider to be of cardinal importance:

(1) As I pointed out at a Foreign Relations Committee meeting, Moscow flagrantly violated the most essential condition of the preamble less than 2 months after signing the treaty by invading and occupying Czechoslovakia and by making military threats against Rumania, Yugoslavia, and West Germany.

(2) The Senate is being asked to ratify a treaty which is only partially drafted and which leaves to future negotiations the crucial matter of inspection.

It is with reluctance that I must vote against ratifying the Nonproliferation Treaty at this juncture, and recommend to the Senate that the question of its ratification be put over to the new Congress.

I strongly support the principle of a Nonproliferation Treaty.

The record will show that over the years I have given my consistent support to the Arms Control and Disarmament Agency and to every reasonable measure in the field of arms control.

I supported the treaty banning nuclear tests in the atmosphere, underwater and in space; and I derive some satisfaction from the knowledge that my resolution of May 1963, calling for the unilateral cessation of atmospheric and underwater tests, was cosponsored by 32 other Senators, and that this show of Senate sentiment has been credited by some with helping to make the partial test ban treaty possible.

I also voted for the treaty barring nuclear weapons from space.

But in the case of the Nonproliferation Treaty, there are certain political facts of overriding importance which compel me to vote against ratification at this time.

While I know of no divisions within the Senate on the general desirability of a nonproliferation treaty, the invasion of Czechoslovakia and the events that have followed it raise serious questions about the wisdom and propriety of ratifying the Nonproliferation Treaty at this point.

The Soviet invasion of Czechoslovakia is a clear violation of the final clause of the preamble which is part of the text of the treaty and which precedes the articles of the treaty.

This clause of the treaty is also clearly violated by the ominous threats of invasion, reinforced by troop movements, that have been directed against both Rumania and Yugoslavia, and by the more recently voiced Soviet assertion that it is "ready, together with other peace-loving states, to take the necessary effective measures" to curb what it alleges to be neo-Nazi and militarist activities in West Germany.

The clause in question reads:

The States concluding this Treaty, hereinafter referred to as the "Parties of the Treaty" Recalling that, *in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.*

Thus, even before we have had a chance to vote on the ratification of the treaty, the Soviet Union has flagrantly violated the essential premise on which it is based by invading the territory of one country which is already a signatory of the treaty and by threatening to invade the territory of two other countries which are signatories and of a major country which is an expected signatory.

To move to ratify the treaty under these circumstances would be folly.

The nonnuclear powers in joining this treaty have made it clear that, in foregoing the right to develop nuclear weapons of their own, they expect an ironclad assurance from the nuclear powers, and from the Soviet Union and the United States in the first instance, that their territorial integrity and independence will be respected. Without such an assurance, the treaty would be meaningless; and the chances are that, had such an assurance not been written into the preamble of the treaty, a majority of the present signatories would have refrained from signing the treaty.

Since July 1 of this year, 82 governments have signed this treaty, either in Washington, London, or Moscow. Only three or four minor governments, like Gambia and the Maldiv Islands, have added their signatures since the Soviet Union invaded Czechoslovakia on August 21. Had the signing ceremony been held after the invasion of Czechoslovakia instead of in early July, it is a reasonably safe assumption that the overwhelming majority of the 82 signatories would have honored the occasion by their absence.

The ratification of the treaty while Soviet troops remain in occupation of Czechoslovakia would debase the meaning of all treaties and would suggest an attitude of tolerance toward those nations that are prone to regard treaties as scraps of paper.

It would put us in the ridiculous position of ratifying an agreement that has already been nullified by the action of a major signatory.

It would encourage the Soviet Union to further pursue the course of aggression on which it has embarked in Central Europe, because the ratification of the treaty would be tantamount to saying that we intend to close our eyes to what has happened and pursue a "business as usual" policy.

Anthony Eden, the Earl of Avon, a man who, as Foreign Secretary of Great Britain, had the foresight and courage to oppose the appeasement of Nazi Germany, had this to say about the matter in an article in the New York Times on September 14:

At times during the Bulganin-Khrushchev era some progress on these lines seemed possible. *Now not only these but other attempts at negotiation between Moscow and the West must be ruled out, unless one condition is first fulfilled. The Soviet armies must be withdrawn from Czechoslovak soil and*

that country's Government allowed to function free from the imposition of foreign nominees or dictated censorship.

This is the indispensable minimum, for all negotiation must rest on confidence, and there can be none in the conditions which Russia has imposed upon Czechoslovakia. To condone what has happened would be base; it would also be foolish. The history of the thirties has taught us mercilessly that to attempt new agreements, while ignoring flagrant breaches of the old, earns contempt, not progress.

I agree with the Earl of Avon's suggestion that the ratification of this treaty and discussions on other aspects of disarmament should be made conditional on the withdrawal of Soviet troops from Czechoslovakia.

There is another reason why ratification by the U.S. Senate at this specific moment would be unwise.

The treaty is meaningless unless those nations in Europe and Asia with the greatest potential for becoming nuclear powers adhere to it.

Even before Czechoslovakia, the Governments of West Germany, Italy, Japan, India, and Pakistan had indicated grave reservations about certain aspects of the treaty. The invasion of Czechoslovakia has produced a violent reaction in all of these countries. The Government of Italy has already indicated that it will not under the present circumstances ratify the treaty. The governments of the other major countries I have named are clearly less disposed to go along with the treaty than they were previously. Even neutral Switzerland has let it be known that it now has serious doubts about ratifying the treaty.

After Czechoslovakia, without a cooling off period, the chances are that none of the major nonnuclear nations and far from all of the smaller ones will ratify the treaty. This would reduce its effectiveness to zero. If these nations are to be induced to sign it, their assurance that the major nuclear powers are committed to respect the territorial integrity and independence of other nations will have to be restored. This can only be done if the Soviets bow to world opinion, as Britain and France did at the time of the Suez crisis, and withdraw their forces from Czechoslovakia.

From a purely tactical standpoint, therefore, those who support the principle of a Nonproliferation Treaty would do well to consider whether they serve their cause or disserve it by pushing for ratification at this juncture.

THE QUESTION OF INSPECTION

I have said that I strongly support the principle of the Nonproliferation Treaty. While my basic argument is addressed to the folly of ratifying the Nonproliferation Treaty on the heels of the Soviet invasion of Czechoslovakia, there is also a matter of substance in the text of the treaty which I particularly wish to call to the attention of the Senate.

It has heretofore been a basic concept of our approach to problems of arms control and disarmament that every measure in this field must be accompanied by an adequate system of inspection. This guiding principle has become all the more imperative in the light of the continuing Soviet record of violations of treaties and of the UN Charter.

However, instead of spelling out the terms of the verification procedures which all the signatory states will be obliged to accept, the Nonproliferation Treaty leaves these terms to be negotiated at some future date. And, to compound this folly, it makes it possible for each signatory state to negotiate its agreement on the terms of verification individually with the International Atomic Energy Agency.

Let me quote here from article III, paragraph 1, of the treaty:

Each non-nuclear-weapon State Party to the Treaty *undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices.*

Article III, paragraph 4, reads further:

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article *either individually or together with other States* in accordance with the Statute of the International Atomic Energy Agency. *Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty.* For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. *Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.*

It is true that the text of the treaty does say that future agreements on inspection procedures shall be "in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system." But if there are to be standardized safeguards, then I believe that the text of this treaty should spell them out explicitly instead of leaving the safeguards to future negotiations between the signatories, individually or collectively, and the International Atomic Energy Agency.

Moreover, I consider the safeguards written into existing agreements between the International Atomic Energy Agency and non-nuclear nations to be inadequate. For example, when Mr. William Foster, the Director of the Arms Control and Disarmament Agency, was asked whether the treaty would make it possible for the International Atomic Energy Agency to search out clandestine nuclear military facilities in a nonnuclear country, Mr. Foster replied that, while such a facility would be a clear breach of the treaty, there was, in fact, no provision in the treaty that would enable the IAEA to search out clandestine facilities.

This testimony takes on added significance in the light of the statement by Dr. Glenn T. Seaborg, Chairman of the Atomic Energy Commission, that "it is perfectly feasible to build a clandestine chemical processing plant using readily available technology and equip-

ment." Mr. Seaborg was talking specifically about the possibility of separating weapons-grade plutonium from the plutonium produced in peace nuclear reactors.

The minority report makes the point that the Soviet Government has made it clear that it will not agree to the inspection of any of its nuclear facilities under the Nonproliferation Treaty.

In order to insure the nonproliferation of nuclear weapons, it is, of course, not essential to inspect peaceful nuclear facilities in those countries that already have a nuclear military capability.

But because of the highly competitive international market that is now developing in the field of peaceful nuclear technology, some of our Western European Allies are understandably concerned over the prospect of having to submit the designs of their principal nuclear facilities for review by the International Atomic Energy Agency, whose governing board includes the Soviet Union, and of having to open up these facilities to IAEA inspection.

It was at the insistence of the Western European governments that the revised safeguards system of the IAEA includes a clause which reads:

13. In implementing safeguards, the Agency shall take every precaution to protect commercial and industrial secrets. No member of the Agency's staff shall disclose, except to the Director General and to such other members of the staff as the Director General may authorize to have such information by reason of their official duties in connection with safeguards, any commercial or industrial secret or any other confidential information coming to his knowledge by reason of the implementation of safeguards by the Agency.

14. The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of safeguards . . .

While nations accepting IAEA inspection have the right to object to particular inspectors, there is understandable concern over the fact that the Soviet Union, as a member of the Board of Governors, may succeed in obtaining access to information which is supposed to be protected.

Hopefully, an agreement can be worked out between Euratom and IAEA for inspection procedures that give Euratom a principal role in implementing the terms of the Nonproliferation Treaty in the Western European countries which make up its membership. This is something which remains to be seen. But Euratom remains understandably concerned over the possibility that the International Atomic Energy Agency, under the Nonproliferation Treaty, will be given powers which will seriously undercut Euratom's authority.

Because the United States recognizes the validity of the contention that countries without a nuclear military capability should not be required to accept review and inspection of their peaceful nuclear facilities if the major nuclear powers do not do likewise, we have made it clear, even though the question of nonproliferation is not involved, that all of our peaceful facilities will be open to the same inspection as the facilities of other countries adhering to the treaty.

It is regrettable that the Soviet Union has not done likewise. In this sense, the treaty has failed to make any contribution to the opening up of Soviet society which should be one of the prime objectives of all agreements in the field of arms control and disarmament. Because so long as the Soviet Union remains a closed totalitarian society, the free nations of the world will have to worry about its intentions and its capabilities.

The incomplete nature of the clause having to do with inspection is an additional argument in favor of postponing ratification. Such a postponement would make it possible for the signatory nations to discuss, and hopefully, agree on the terms of uniform inspection procedures binding on all nations.

I urge the Senate to make the ratification of the Nonproliferation Treaty or of any treaty on arms control, contingent on Soviet withdrawal from Czechoslovakia.

But beyond this, I urge the administration not to press the Senate to ratify a treaty, some of the most critical articles of which may not be negotiated for another 2 years; a treaty, which, in effect, permits each signatory nation to determine what kind of inspection it will accept; a treaty that at this moment has no safeguards of any kind written into its text.

I urge it to give the Senate a treaty with built-in safeguards, a treaty whose terms make it self-policing, a treaty which the Senate can vote to ratify in good conscience.

Given such a treaty, given the withdrawal of Soviet forces from Czechoslovakia, and given an end to threats of Soviet aggression against other nations, I am sure that the Senate will vote for it unanimously.

INDIVIDUAL VIEWS OF SENATOR GEORGE D. AIKEN

While I am sympathetic to the objectives of the treaty in trying to curtail proliferation of nuclear weapons, I feel that there are some definite understandings which should be reached with respect to the economic responsibilities of this country before the treaty is voted upon.

(29)





